

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF SHINYANGA**

AT SHINYANGA

LAND CASE NO. 2 OF 2021

KUYELA LUHENDE.....PLAINTIFF

VERSUS

- 1. IGOBE VILLAGE COUNCIL.....**
 - 2. MEATU DISTRICT COUNCIL.....**
 - 3. MEATU WATER SUPPLY AND SANITATION
AUTHORITY.....**
 - 4. ATTORNEY GENERAL.....**
- DEFENDANT**

RULING

31st May 2022

MKWIZU, J

The plaintiff has approached the court for a total sum of Three Hundred and Fifty Million Tanzania shillings (350,000,000/=) as compensation of his land measuring 13 acres situated at Igobe Village within Meatu district allegedly invaded by the defendants . The defendants written statement of defence came with four points of preliminary objections to with: -

- 1. That, this suit is prematurely instituted
- 2. That, this suit is bad in law by suing a non-existing entity
- 3. That, the location of disputed land is undisclosed
- 4. That, the suit is untenable for not disclosing any cause of action against the defendant

When the matter came for hearing of the preliminary objections today, Ms Getrude Faustine, holding the brief of Mr. Joseph Ole Shangai for the plaintiff readily conceded to all the raise preliminary points of law urging the court to strike out the suit with no order as to costs. Mr. Kalenda, learned State Attorney for the defendants had no objection to the concessions by the plaintiff's counsel, he however pressed for the costs.

The law is settled that, to grant or refuse to grant costs is always court's discretion. Such discretion which is to be exercised judiciously. And further those costs in the suit are a right of a winning party unless there are reasons for not awarding them. The Plaintiff counsel has advanced no reason why defendants who took steps to respond to their plaint by filing the written statement of defence coupled with the above preliminary objection should not be awarded costs.

In the circumstances, the suit by the plaintiff is struck out with costs.

Order accordingly.

Dated at Shinyanga this 31st day of May 2022


E.Y. MKWIZU
JUDGE
31/5/2022